UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,355	01/05/2001	Robert E. Dvorak	BLFR 1002-1	3933

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EXAMINER
VAN DOREN, BETH

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/755,355	DVORAK ET AL.
	Examiner	Art Unit
	Beth Van Doren	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 January 2001</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-42</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-42</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a non-final, first office action on the merits. Claims 1-42 are pending.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 4, 8, 10, 12, 14, 16, 19, 23, 25, 27-29, 33-35, and 39-40 are rejected under 35

U.S.C. 102(a) as being anticipated by Technology Strategy, Inc. (www.grossprofit.com). The

following references describe the different features of the service performed by Technology

Strategy, Inc.:

i.   Screenshots of www.grossprofit.com, which is Technology Strategy, Inc.'s

homepage (referred to herein as references A);

ii.   Article "Merchants Try Complex Math Tools to Improve Inventory Decisions" by

Koloszyc from Stores Magazine (referred to herein as reference B);

iii.   Article "Looking Back to Fashion's Future" by Ackerman from The Boston

Globe (referred to herein as reference C).

3.   As per claim 1, Technology Strategy, Inc. teaches a computer implemented method of

supplying a sales history for a good lacking a sales history, including:

associating sales history data for sales of a cloned good at a plurality of selling locations

with an other good (See at least reference B, page 1, section 3, page 2, sections 1-2, page 3,

sections 2-5, reference C, page 3, sections 4-6, wherein sales history data is associated);

scaling the associated sales history data upward or downward based on anticipated sales

of the other good (See at least reference A, pages 1-2 and 4, reference B, page 1, section 3, page

2, sections 1-2, page 3, sections 2-5, reference C, page 3, sections 4-6, wherein the data is scaled

using mathematical equations) ;

tracking actual sales of the other good for an interval (See at least reference A, pages 1-2

and 4, reference B, page 3, sections 2-6, wherein actual sales are tracked for an interval); and

rescaling the associated sales history data based on actual sales of the other good during

the interval (See at least reference A, pages 1-2 and 4, reference B, page 2, sections 2-6, and

page 3, sections 2-6, wherein the plan is rescaled based on the tracking).

4.   As per claim 4, Technology Strategy, Inc. teaches wherein associating sales history data

includes copying the sales history data (See at least reference A, pages 1-2 and 4, reference B,

page 2, sections 2-6, and page 3, sections 2-6, wherein the plan copies sales history data).

5.   As per claim 8, Technology Strategy, Inc. discloses scaling the associated sales history

data including modifying the associated sales history data (See at least reference A, pages 1-2

and 4, reference B, page 2, sections 2-6, and page 3, sections 2-6, wherein the plan, which

includes sales history data, is rescaled).

6.   As per claims 10 and 14, Technology Strategy, Inc. discloses wherein scaling and

rescaling the associated sales history data includes storing a scaling factor to be applied to the

associated sales history data (See at least reference A, page 2, sections 1-2, page 4, sections 2-4,

and reference B, page 1, section 5, page 2, sections 6-7, and page 3, wherein the scaling factor is

a stored model).

7.   As per claim 12, Technology Strategy, Inc. discloses rescaling the associated sales

history data including modifying the associated sales history data (See at least reference A, pages

1-2 and 4, reference B, page 2, sections 2-6, and page 3, sections 2-6, where the plan, including

sales history data, is rescaled).

8.   As per claim 16, Technology Strategy, Inc. discloses a computer implemented method of

supplying a sales history for a selling location lacking a sales history, including:

        associating sales history data for sales of a plurality of goods at a cloned selling location

with an other selling location (See at least reference B, page 1, section 3, page 2, sections 1-2,

page 3, sections 2-5, reference C, page 3, sections 4-6, wherein sales history data is associated);

        scaling the associated sales history data upward or downward based on anticipated sales

at the other selling location (See at least reference A, pages 1-2 and 4, reference B, page 1,

section 3, page 2, sections 1-2, page 3, sections 2-5, reference C, page 3, sections 4-6, wherein

the data is scaled using mathematical equations);

        tracking actual sales of the goods at the other selling location for an interval (See at least

reference A, pages 1-2 and 4, reference B, page 3, sections 2-6, wherein actual sales are tracked

for an interval); and

        rescaling the associated sales history data based on actual sales of the goods at the other

selling location during the interval (See at least reference A, pages 1-2 and 4, reference B, page

2, sections 2-6, and page 3, sections 2-6, wherein the plan is rescaled based on the tracking).

9.   As per claims 28 and 29, Technology Strategy, Inc. discloses wherein rescaling is based

on actual sales of the other selling location as a whole and based on actual sales of the respective

goods at the other selling location (See at least reference A, pages 1-2 and 4, reference B, page 1,

section 3, page 2, sections 2-6, and page 3, and reference C, page 2, sections 3 and 4, and page 3,

sections 4-5, which discuss rescaling based on action sales at locations).

10.   As per claim 33, Technology Strategy, Inc. discloses wherein rescaling the associated

sales history data includes storing one or more scaling factors applicable to the associated sales

history data (See at least reference A, page 2, sections 1-2, page 4, sections 2-4, and reference B,

page 1, section 5, page 2, sections 6-7, and page 3, wherein the scaling factor is a stored model).

11.   Claims 19, 23, 25, 27 and 34-35 recite equivalent limitations to claims 4, 8, 10, 12, and

28-29 respectively, and are therefore rejected using the same art and rationale above.

12.   As per claim 39, Technology Strategy, Inc. discloses a computer implemented method of

supplying a sales history for a good lacking a sales history, including:

        associating sales history data for sales of a cloned good at a plurality of selling locations

with an other good (See at least reference B, page 1, section 3, page 2, sections 1-2, page 3,

sections 2-5, reference C, page 3, sections 4-6, wherein sales history data is associated);

        scaling the associated sales history data upward or downward based on anticipated sales

of the other good (See at least reference A, pages 1-2 and 4, reference B, page 1, section 3, page

2, sections 1-2, page 3, sections 2-5, reference C, page 3, sections 4-6, wherein the data is scaled

using mathematical equations) ;

        tracking actual sales of the other good for an interval (See at least reference A, pages 1-2

and 4, reference B, page 3, sections 2-6, wherein actual sales are tracked for an interval); and

        comparing the actual sales of the good to the sales history data for a set of candidate

goods and evaluating whether the sales history of one or more of the candidate goods better

matches said actual sales than the associated sales history data of the cloned good (See at least

reference A, pages 1-2 and 4, reference B, page 2, sections 2-6, and page 3, sections 2-6, wherein the plan is rescaled based on the tracking. The evaluation shows whether another plan is better than the one currently used).

13.   As per claim 40, Technology Strategy, Inc. discloses wherein the actual sales interval includes a plurality of causal periods and evaluating takes place on a causal period by causal period basis (See at least reference A, page 4, specifically section 4, reference B, page 1, section 3, page 2, sections 2-6, and page 3, and reference C, page 2, sections 3 and 4, which discloses sales intervals on which the sales are evaluated).

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-3, 5-7, 9, 11, 13, 15, 17-18, 20-22, 24, 26, 30-32, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Technology Strategy, Inc. (www.grossprofit.com, references disclosed above) in view of Lee et al. (U.S. 5,712,985).

15.   As per claims 2 and 3, Technology Strategy, Inc. teaches wherein the rescaling takes place after the interval and wherein the rescaling takes place repeatedly on a predetermined cycle beginning at the end of the interval (See at least reference A, pages 1-2 and 4, reference B, sections 2-6, wherein the plan is rescaled based on predetermined intervals). However, Technology Strategy, Inc. does not expressly disclose this rescaling occurring without intervention of a user.

Lee et al. discloses rescaling occurring without intervention of a user (See at least column 3, lines 54-65, column 7, lines 20-35, column 10, lines 45-67).

Both Technology Strategy, Inc. and Lee et al. disclose demand forecasting and supply planning for a business item using a profile of historic data. Both the systems are computer-implemented. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the weekly assessments of Technology Strategy, Inc. occur automatically and without human intervention in order to increase the speed to action of the system by causing the assessments to occur on a definable, on-going basis. See at least page 5.

16.   As per claims 6 and 7, Technology Strategy, Inc. discloses associating sales history data (See at least reference B, page 1, section 3, page 2, sections 1-2, page 3, sections 2-5, reference C, page 3, sections 4-6, wherein sales history data is associated). However, Technology Strategy, Inc. does not expressly disclose associating by creating a reference or pointer to the sales history data.

Lee et al. discloses associating by creating a reference or pointer to the sales history data (See at least column 5, lines 10-25 and 45-65, column 7, and column 10).

Both Technology Strategy, Inc. and Lee et al. disclose demand forecasting and supply planning for a business item using a profile of historic data. Both the systems are computer-implemented. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to associate the history data in Technology Strategy, Inc. using a reference or pointer in order to increase the integrity of the data by not allowing the user of the data to alter the data in any way.

17.   Claims 5, 9, 11, 13, and 15 recite equivalent limitations to claims 4, 8, 10, 12, and 14,

respectively, and are therefore rejected using the same art and rationale above.

18.   Claims 17-18, 20-22, 24, 26, 30, 31-32, 36, and 37-38 recite equivalent limitations to

claims 2-3, 5-7, 9, 11, 12, 28-29, 33, and 28-29, respectively, and are therefore rejected using the

same art and rationale above.

19.   Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Technology

Strategy, Inc. (www.grossprofit.com, references disclosed above).

20.   As per claim 41, Technology Strategy, Inc. discloses wherein the actual sales interval

includes weekly or more frequent periods and evaluating takes place on a weekly or more

frequent period basis (See at least reference A, page 4, reference B, page 1, section 3, page 2,

sections 2-6, and page 3, which discloses evaluating on a weekly basis). However, Technology

Strategy, Inc. does not expressly disclose evaluating on a daily basis.

       Technology Strategy, Inc. discloses rescaling on specific time intervals, specifically

weekly intervals. Technology Strategy, Inc. further discloses that the software meets the specific

needs of the customer. Therefore, it would have been obvious to one of ordinary skill in the art

at the time of the invention to use a daily interval instead of a weekly interval in order to more

accurately control inventory volumes by using a smaller unit of measurement. The system of

Technology Strategy, Inc. is capable of operating on any interval selected.

21.   As per claim 42, Technology Strategy, Inc. discloses wherein comparing and evaluating

take place after the actual sales interval (See at least reference A, page 4, reference B, page 1,

section 3, page 2, sections 2-6, and page 3). However, Technology Strategy, Inc. does not

expressly disclose and Lee et al. discloses comparing and evaluating without intervention of a user See at least column 3, lines 54-65, column 7, lines 20-35, column 10, lines 45-67).

Both Technology Strategy, Inc. and Lee et al. disclose demand forecasting and supply planning for a business item using a profile of historic data. Both the systems are computer-implemented. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the weekly assessments of Technology Strategy, Inc. occur automatically and without human intervention in order to increase the speed to action of the system by causing the assessments to occur on a definable, on-going basis. See at least page 5.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Huang et al. (U.S. 5,953,707) discloses demand forecasting and adjusting the plan using actual sales data.

Cunningham et al. (U.S. 6,029,139) teaches evaluating and optimizing plans for products using product information, regional information, and historic data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd
December 7, 2004

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